

surfactants, hydrotropes, thickeners, dyes, colorants, biocides, fragrances and mixtures thereof.

8. **(Previously Amended)** A method for imparting resistance to hard water staining to a vitreous surface, comprising contacting said vitreous surface with the hard surface cleaner of claim 1.

9. **(Previously Amended)** An improved liquid aqueous hard surface cleaner, comprising:

- (a) a water-dispersible fluoropolymer having a molecular weight of at least 5000 Daltons;
- (b) a surfactant; and
- (c) a chelating agent/buffer;

with the remainder, water, wherein the hard surface cleaner is in a liquid form selected from the group consisting of: an emulsion, suspoemulsion, liquid crystal, isotropic system, structured liquid, foam, gel paste or mull, and wherein the hard surface cleaner has at least 10% faster dry times than a comparable cleaner without a fluoropolymer and causes a hard surface cleaned therewith to be rendered repellant to staining by heavy metals.

### **REMARKS**

Applicants herein amend the specification and claims, and request reconsideration of the newly amended specification and claims in light of the comments below. Claims 1 and 9 have been amended in order to more clearly define and point out that which the inventors regard as their invention. Support for the requested amendments to Claims 1 and 9 may be found in the specification as filed on page 15, lines 1-5 and page 17, lines 11-22. None of the foregoing amendments add substantive matter to the original specification, and are requested mainly for purposes of distinguishing the applicants invention from the cited prior art.

### **REJECTION UNDER 35 U.S.C. §102(b)**

In the Office Action dated March 5, 2003, the Examiner rejected Claims 1-5 and 7-9 under 35 U.S.C. §102(b) as being anticipated by Burke, *et al.* (U.S. Pat. No. 5,932,328). The

basis for the Examiner's rejection relies on Example III of the Burke patent there is a teaching for a cleaning and polishing composition which contains a fluoropolymer, nonionic surfactants, a chelating agent and water. It is also important to note that Burke teaches that the Example III composition is used on a lacquered surface and the composition forms three distinct layers (Col. 7 lines 66-67). Specifically, Burke's coating has a bottom layer of silicone oil, an intermediate water-repelling film-forming polymer layer and a top oil layer.

In contrast, the hard surface cleaner of applicants' invention is preferably used to clean hard vitreous surfaces and the hard surface cleaner is in the form of an emulsion, suspoemulsion, liquid crystal, isotropic system, structured liquid, foam, gel paste or mull, which by its very nature results in a single layer film on the surface of the treated object. Therefore independent claims 1 and 9 have been amended to more clearly point out the difference between the three-layer coating created using the Burke composition and the applicants' single-layer hard surface cleaner.

In view of the amendments to claims 1 and 9, the rejection under 35 U.S.C. §102(b) based on Burke, et al. should be withdrawn because the Burke reference does not anticipate applicants' invention. In order for a rejection under 35 U.S.C. §102(b) to be appropriate, "a single [prior art] source must contain all the elements of the claim." *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986). Since Burke et al. does not teach or suggest a single-layer hard surface cleaning composition with a fluoropolymer over 5,000 Daltons, it does not anticipate applicants' invention.

In light of the foregoing, Applicants respectfully requests that the rejection of Claims 1-5 and 7-9 under 35 U.S.C. §102(b) based on Burke be withdrawn. Applicants' believe that amended independent Claims 1 and 9 and the claims dependent thereon are in condition for allowance and favorable reconsideration of Claims 1-9 is therefore respectfully requested.

#### **REJECTION UNDER 35 U.S.C. §102(e)**

Claims 1-5 and 7-9 of the present invention were rejected under 35 U.S.C §102(e) in the Office Action dated March 5, 2003 as being anticipated by Klayder, *et al.* (U.S. Pat. No. 6,013,323). The Examiner stated: "Klayder, *et al.*, teach silicone wax and protectant compositions" and that "as the compositions of Klayder teach the *identical components* as

applicants' composition, the protectants of Klayder will inherently possess cleaning properties" (emphasis added). Applicants respectfully disagree with the Examiner. Klayder **does not** teach a chelating agent and thus does *not* teach *identical components*.

In order for a rejection under 35 U.S.C. §102(e) to be appropriate, "a single source must contain ***all*** the elements of the claim," (*Hybritech, vide supra*, emphasis added). As recited in independent Claims 1 and 9, the inventive compositions contain a chelant, which is neither taught nor claimed by Klayder. The use of a chelating agent is critical to the applicant's invention because it is useful in metal complexation and thus aids in the removal of heavy metals such as those found in hard water stains. Applicants' claimed invention imparts repellency to hard surfaces against staining by heavy metals. Klayder does not teach the use of a chelating agent and is silent on the cleaning and repellency of stains overall, let alone stains due to heavy metals. Lacking the elements of Applicants' invention, therefore, Klayder cannot anticipate the cleaning and protective compositions of the present invention.

Klayder teaches silicone gelled waxes or protectants in combination with an *optional* fluoropolymer to *enhance the appearance* of "surfaces such as plastics, vinyl, leather, rubber, etc., *particularly those materials such as found in car interiors* (col. 2, lines 18-20, emphasis added). Klayder teaches a gelled composition to enhance the appearance of surface features such as gloss (col. 3, lines 35-37) and shine (col. 3, lines 60-63). By contrast, Applicants' invention is directed towards cleaning compositions, which are suitable for use on hard surfaces that are repeatedly exposed to hard water. In sum, the central distinctions between Klayder's composition and the present invention are that Klayder's composition does not have a chelating agent and therefore cannot act as a repellant to heavy metal stains according to applicants' claimed invention. Secondly, Klayder's composition serves as a surface protectant to rather than a hard surface cleaner according to applicants' claimed invention. In view of these distinctions between Klayder and the present invention, applicants' respectfully request the withdrawal of the §102(e) rejection based on Klayder and reconsideration of the claims as herein amended.

#### **REJECTION UNDER 35 U.S.C. §103(a)**

In the Office Action dated March 5, 2003, the Examiner rejected Claims 1-9 under 35 U.S.C. §103(a) as being obvious in view of Burke, et al (U.S. Pat. No. 5,932,328). The Examiner stated: "Though quaternary ammonium surfactants are not taught by Burke et al, such

surfactants are well known for use in hard surface cleaners and do not add patentable weight to the claims.”

To establish a *prima facie* case of obviousness, 35 U.S.C. §103(a) requires a showing that the prior art relied upon, coupled with the knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or to combine references. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ.2d 1596, 1598 (Fed. Cir. 1988). Second, the proposed modification of the prior art must have had a reasonable expectation of success. *Amgen, Inc. v. Chugai Pharm. Co.*, 927 F.2d 1200, 1209, 18 USPQ.2d 1016, 1023 (Fed. Cir. 1991). Finally, the prior art reference or combination of references must teach or suggest *all* the limitations of the claims. *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Since the Examiner expressly stated that all the limitations of the claims had not been met because Burke does not teach or suggest the use of quaternary ammonium surfactants, applicants’ respectfully request the withdrawal of this obviousness rejection.

Furthermore, the Examiner should note that it would not have been obvious for one skilled in the art to modify the compositions taught by Burke et al. to include quaternary ammonium compounds because Burke’s invention is for a protective coating for furniture not a hard surface cleaner which repels stains from heavy metals. Burke’s composition is designed to create a multiple layer film on a furniture surface, which has smear resistance, water protection and a glossy appearance. Unlike the present invention, Burke’s composition is not designed to create a barrier to towards metal ion staining by hard water. It is intuitive that Burke’s composition would not contain quaternary ammonium compounds to reduce metal ion staining because furniture is seldom exposed to repeated washing with water where staining by hard water might be of concern.

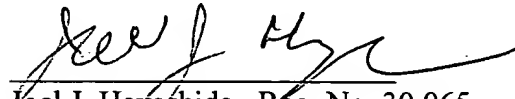
For the foregoing reasons, the present invention is not obvious in view of Burke, and therefore the rejection under 35 U.S.C. §103 should be withdrawn. Withdrawal of this rejection and reconsideration of the pending claims as amended herein is therefore respectfully urged.

**CONCLUSION**

Applicants assert that the claims as herein amended are novel and neither anticipated nor obvious in view the cited art. Favorable consideration is therefore respectfully requested.

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Respectfully submitted,



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